

# LEVI&KORSINSKY LLP

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June 21, 2018

## **VIA ECF FILING**

The Honorable Vince Chhabria  
United States District Court  
San Francisco Courthouse, Courtroom 4 - 17th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

**Re: *In Re: Facebook, Inc., Consumer Privacy User Profile Litigation*  
MDL No. 2843, Master Docket No. 18-md-02843-VC**

Dear Judge Chhabria:

Pursuant to this Court's Pretrial Order No. 1 (ECF No. 2), I, Rosemary M. Rivas, a partner with the law firm of Levi & Korsinsky, LLP ("L&K"), hereby apply for appointment as Plaintiffs' lead counsel.<sup>1</sup> We represent Plaintiff Barbara Vance-Guerbe in the action titled *Vance-Guerbe v. Facebook, Inc., et al.*, Case No. 3:18-cv-2987-VC filed in this District on May 21, 2018.

Consumer rights are very important to me and as my application shows, I have successfully litigated consumer class action cases, including data breaches, for about 18 years. I am immensely satisfied from my work when, at the end of the day, consumers contact me expressing gratitude and appreciation for the results of the cases I have successfully litigated and favorably resolved.

## **Professional Experience with MDLs and with the Subject Matter of this Litigation:**

I manage L&K's San Francisco office and the firm's Consumer Litigation Group. I have dedicated my legal career to representing consumers and have a significant amount of experience and knowledge in litigating complex, class action cases against some of the largest corporations in the world, including, but not limited to, Apple, Sony, Gateway, Allergan, Volkswagen, Naked Juice, ConAgra, Health Net, and Blue Shield of California, to name a few.

My professional experience and skills in MDL proceedings and class action litigation is underscored by recent appointments and work in high-profile cases. Recently, out of a highly competitive applicant pool, I was appointed Interim Co-Lead Plaintiffs' Counsel in *In re Intel Corp. CPU Marketing, Sales Practices, and Products Liability Litigation*, Case No. 3:18-md-

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<sup>1</sup> If the Court appoints a Plaintiffs' Steering Committee, I respectfully request that in the alternative, the Court appoint me to the PSC.

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02828-SI, a large MDL which involves hundreds of millions of computers and other products purchased by consumers and business organizations that are now subject to security vulnerabilities as a result of Intel's allegedly flawed CPUs. In addition, out of approximately 150 applicants, I was selected to the Plaintiffs' Steering Committee in *In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, Case No. 15-md-2672-CRB (N.D. Cal.), which settled for approximately \$15 billion on behalf of consumers.<sup>2</sup> As a result of my work in *Volkswagen*, I was honored by the *Daily Journal* with a California Lawyer Attorney of the Year Award in April 2018.

My specific experience involving consumer and data privacy also supports my appointment in this case. Recently, I was appointed as Co-Lead Class Counsel in the case, *Sung, et al. v. Schurman Fine Papers*, Case No. 3:17-cv-02760-LB (final approval pending), involving the disclosure of employee W-2s. Under the settlement negotiated in *Sung*, class members are eligible to recover up to \$650 in reimbursements plus credit monitoring until 2022. I was one of the PSC attorneys in a large MDL concerning software that improperly intercepted and transmitted private communications, content, and data from cell phones, which resulted in a \$9 million settlement and valuable injunctive relief. See *In re Carrier IQ, Inc., Consumer Privacy Litigation*, Case No. 3:12-md-02330-EMC (N.D. Cal.). In *Carrier IQ*, I was instrumental in formulating the Article III standing arguments that were made to defeat the motion to dismiss, among other things. I also assisted in a global settlement for a class of approximately two million consumers against Health Net of California for failing to adequately protect private personal and medical information from unauthorized disclosure to third parties. *Shurtleff v. Health Net of California*, Case No. 34-2012-00121600 (Sacramento Sup. Ct. Cal.) (settled for credit monitoring, \$2 million fund for identity theft costs, and improvements to company's security practices). I also represented the plaintiff in *Ruiz v. Gap, Inc.*, 380 Fed. Appx. 689, 691 (9th Cir. 2010), one of the earliest decisions by the Ninth Circuit finding Article III standing in a case involving the theft of a laptop containing job applicants' personal information and Social Security Numbers.

Based on my experience and knowledge, I have been invited to speak at a number of conferences regarding class action litigation and consumer data privacy.<sup>3</sup> This week, I will be part of a panel that includes the Honorable James Donato (N.D. Cal.) speaking on the Ninth Circuit's recent decision in *In re: Hyundai and Kia Fuel Economy Litigation*. This presentation

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<sup>2</sup> I am also serving on the Plaintiffs' Executive Committee in *In Re: Apple Inc. Device Performance Litigation*, Case No. 18-md-02827-EJD and the Plaintiffs' Steering Committee in the case titled *In Re: EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litigation*, Case No. 17-md-02785-DDC.

<sup>3</sup> Speaking engagements include: *The Right Approach to Effective Claims*, 2018 (Beard Group - Class Action Money & Ethics); *Section 17200: The Fertility of Man's Invention*, 2016 (The Bar Association of San Francisco); *Data Privacy Law 101: U.S. Data Privacy and Security Laws*, 2015 (The Bar Association of San Francisco); *Food Labeling and False Advertising Class Actions*, 2015 (The Bar Association of San Francisco); and *Class Actions: New Developments & Approaches for Strategic Response*, 2013 (American Bar Association).

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is part of the American Bar Association's Fifth Annual Western Regional CLE Program on Class Actions and Mass Torts.

**Familiarity with the Claims Before the Court:** I have undertaken a significant amount of work in identifying and investigating the consumer claims at issue here. I researched and reviewed numerous relevant documents including, but not limited to, news articles about the unauthorized harvesting of millions of Facebook users' personal data as well as Facebook's response. Moreover, as detailed above, I have extensive experience litigating class actions involving privacy matters, many of which have been litigated in this District, and am therefore very familiar with the claims and the typical defenses raised thereto.

**Present and Future Ability to Commit to Time-Consuming Litigation; and Resources Available to Prosecute this Litigation in a Timely Manner:** L&K is a well-established, successful law firm with the financial resources to pursue a case of this magnitude and is willing and able to commit to the time-consuming process. We recognize that successfully prosecuting this litigation against a resourceful defendant such as Facebook, on behalf of millions of Facebook users, will require speedy and efficient advocacy and sufficient personnel and financial resources. We are prepared to commit the requisite personnel and financial resources of the firm from beginning to end. The firm has over 30 attorneys based in San Francisco, New York City, Washington, D.C., and Stamford, Connecticut, and thus we are able to provide the personnel and resources that are required of the case. As with other cases that L&K successfully litigated for class members, we expect that similarly extensive resources may be required in this case, and the firm is fully prepared to invest those resources for as long as necessary.

**Ability to Work Cooperatively with Others:** I recognize that civility and professionalism benefits all parties, their counsel, the judiciary, and the legal path toward justice. As demonstrated by the firm's and my successful track records, we are committed to working cooperatively with all counsel and each believe that respect, cooperation, efficiency, and civility among other plaintiffs' lawyers and defense counsel is necessary to achieve the best overall results for affected class members. The nature of the cases I have handled in other national class litigation and MDL proceedings strongly evidences that ability and commitment. Given my history, the Court can be assured that I am both capable and willing to serve alongside any other counsel this Court may see fit to appoint to a leadership position.

**Ability to Maintain Reasonable Fees and Expenses:** L&K has appropriate time keeping protocols in place. Among other things, we bill in tenths of an hour, prohibit block billing, and ensure that the case is staffed appropriately by assigning work to our lawyers based on their skills. For example, our paralegals handle fact research and our junior associates handle legal research. Moreover, the firm's highly experienced attorneys and support staff are skilled at dealing cooperatively with co-counsel to maximize efficiencies and avoid unnecessary costs and expenses.

I thank the Court for its consideration of my application and will attend the initial case management conference on July 18, 2018, to answer any questions the Court may have. My resume and list of supporting lawyers who filed cases in this matter are attached hereto.

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Respectfully submitted,  
**LEVI & KORSINSKY, LLP**

/s/ Rosemary M. Rivas

Rosemary M. Rivas

Attachments  
cc (via ECF): All Counsel